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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/771,935

02/05/2004

Samuel Alan Johnson

3769

26582 7590 02/26/2008
HOLLAND & HART, LLP
P.O BOX 8749
DENVER, CO 80201

EXAMINER

LAUX, JESSICA L

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

02/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/771,935
Filing Date: February 05, 2004
Appellant(s): JOHNSON, SAMUEL ALAN

Shane M. Niebergall
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/14/2007 appealing from the Office action mailed 06/19/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: The examiner stated in the rejection that claims 1-6 were rejected under 35 U.S.C. 102 however only claims 1, 3-4, 6 are rejected. Additionally applicants appeal incorrectly states that the rejection was under 35 U.S.C. 102(a) and the claims are correctly rejected under 35 U.S.C. 102(b) as being anticipated by Okazaki.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5003736

Okazaki et al.

4-1991

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 – it is noted that the “single beams” of claim 2 are not positively claimed and currently are recited functionally as an intended use limitation. It is unclear whether applicant intended to positively claim the “single beams” or not.

Claims 1 and 4 – claim 1 recites “other structural elements” which applicant stated in the remarks filed 04/24/2007 are the rings 11 and 12, however claim 4 further recites the truss elements on one end of the other structural elements are connected, on one end of the structure to an attachment ring and on the other end of the structure to a rotateable ring. It is therefore, unclear in light of the remarks, drawings, and specification which elements are the “other structural elements” and which elements are the rings. Further the specification and drawings are not enabling under 35 USC 112, first paragraph for truss elements connected to “other structural elements on opposing

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ends and also connected to rings. Additionally regarding claims 1 and 4 it is unclear whether each opposed end of the truss elements is connected to at least two other structural elements or one other structural element, and are the multiple truss elements on each end connected to different other structural elements are the same structural elements. Further regarding claim 4, it is unclear what neighboring ones of truss elements is reciting as the claims do not provide structure or structural relationships for "neighboring ones of said truss elements", in such as way as to enable one skilled in the art to understand, know, and use the invention.

The final rejection contained a typo which incorrectly identified claims 1-6 as being anticipated by Okazaki. The correct statement should read claims 1, 3-4, 6 are anticipated by Okazaki (as presented below).

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-4, 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Okazaki et al (5003736).

Regarding claim 1: Okazaki et al. discloses a space frame structure, capable of deployment or retraction comprising multiple truss elements (the combined structure of elements 3, 5), multiple beam elements (3,5) forming each one of said multiple truss elements, and each one of said truss elements being capable of existing in either a straight and rigid condition, or existing in a curved and flexible condition, with opposed ends of said truss elements connected to at least two other structural elements (where

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there are at least two diagonal braces, 6, connected to each truss element) desired to be held spaced apart in a prescribed orientation.

Regarding claim 3: The invention of claim 1 wherein said truss elements are comprised of a carbon fiber composite material (Col. 1, line 38).

Regarding claim 4 (as best understood): The invention of claim 1, wherein neighboring ones of said truss elements on one end of the at least two structural elements are connected on one end of the structure (such as at bottom, 1) to a fixed attachment ring and on another end of the structure to a rotateable deployment ring (such as at top, 2), and said truss elements are configured to effect a condition of creating parallel truss pairs when it is desired to collapse the structure, and to likewise create a condition when it is desired to deploy and rigidify the structure by rotation of said deployment ring to triangulate successive truss pairs

Regarding claim 6: The invention of claim 4, wherein provision is made to automate and mechanize the apparatus for automatic deployment or automatic retraction (Col. 2, lines 11-13).

(10) Response to Argument

Rejection of claims 1, 2, 4 under 35 U.S.C 112, second paragraph:

Applicant appears to be arguing the non-entry of the after final amendment which is not appropriate in an appeal. If applicant would like to contest the non-entry he should file a petition.

Rejection of claims 1-6 under 35 U.S.C. 102(a)

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Applicant submits that Okazaki does not disclose multiple beam elements forming each one of the longerons, 3, of Okazaki. Examiner notes that the limitation of beam elements as recited in the claims does not impart any specific structure or limitations and that, broadly interpreted, beam elements are any element/component associated with the beam structure. Okazaki does disclose multiple truss elements (3, 5; where there are multiple elements 3 each associated with a an element 5, reference drawing below) where the multiple truss elements (X, Y, Z as shown in the annotate drawing below), each one comprising multiple beam elements (where the truss comprises multiple elements 3 and 5 and further where element 5 comprises multiple elements a, b, c as shown below). Therefor Okazaki does disclose the claimed limitations of multiple truss elements and each truss element comprising multiple beam elements.

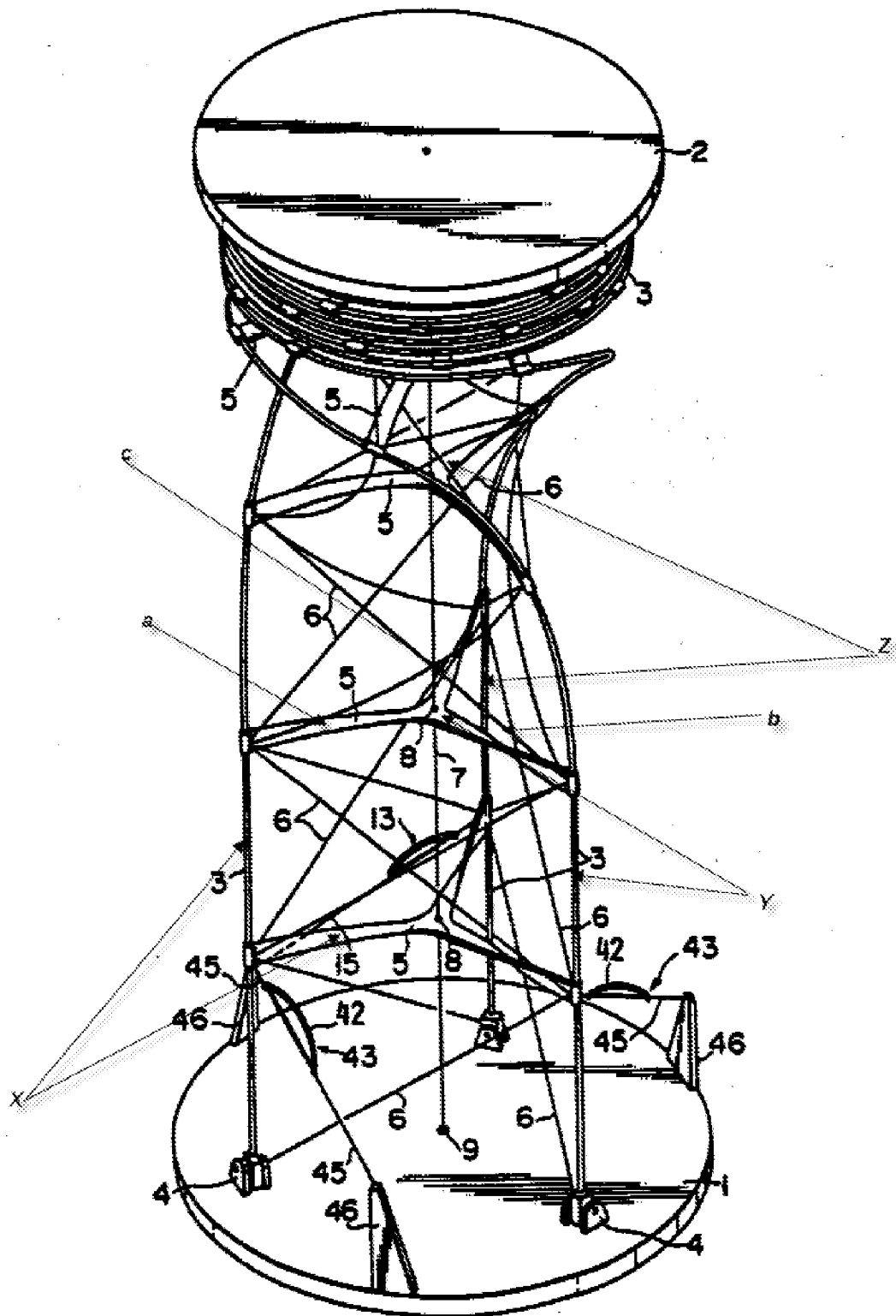


FIG. 10

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jessica Laux

/J. L./

Examiner, Art Unit 3635

Conferees:

Richard Chilcot /REC/

Meredith Petravick /mcp/

/Richard E. Chilcot/

Supervisory Patent Examiner, Art Unit 3635